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Verification in all its aspects, including the role of the United Nations in the field of verification

Report of the Secretary-General

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I. Introduction

1. On 5 December 2007, the General Assembly adopted resolution 62/21, entitled "Verification in all its aspects, including the role of the United Nations in the field of verification". In paragraphs 3 and 4 of the resolution, the General Assembly encouraged Member States to consider the report of the Panel of Government Experts on verification in all its aspects, including the role of the United Nations in the field of verification (A/61/1028) and invited them to offer additional views to the Secretary-General on the report. The Secretary-General was requested to submit to the Assembly at its sixty-third session a compilation of views received from Member States, relevant United Nations organs and international treaty organizations with respect to the report.

2. Pursuant to that request, a note verbale was sent to Member States on 25 February 2008 inviting them to provide information on the subject. A letter from the High Representative for Disarmament Affairs seeking relevant information was also addressed to the Director General of the International Atomic Energy Agency (IAEA), the Executive Secretary of the Preparatory Commission of the Comprehensive Nuclear-Test-Ban Treaty Organization and the Director-General of the Organization for the Prohibition of Chemical Weapons.

3. Replies received from Member States are contained in section II below. Any additional replies received will be issued as addenda to the present report.

II. Replies received from Governments

Canada

[Original: English]
[10 June 2008]

Canada, which championed General Assembly resolution 62/21 on verification in all its aspects, fully endorses the report of the Panel of Government Experts and welcomes the views of Member States. During informal discussions leading to the resolution, several States requested more time to review the report before submitting formal views. We therefore look forward to hearing these views and in seeing how Member States can further develop the 21 recommendations made by the Panel.

Cuba

[Original: Spanish]
[19 June 2008]

Cuba considers that verification measures are an important component in the drafting of international disarmament and arms control conventions. The report submitted by the Secretary-General of 15 August 2007 (A/61/1028) is one more contribution to the debate and to the decisions that the States have taken over the past few years within the framework of the United Nations and other multilateral systems. As paragraph 8 of this report states, it is selective, not exhaustive, in its treatment of verification, so that its contents cannot be considered a definitive approach.

Nevertheless, States should take into consideration the ideas that it contains in their sovereign exercise of designing verification measures as part of disarmament and arms control agreements, in keeping with the respective characteristics and provisions of those agreements.

Some basic principles or premises continue to be valid, irrespective of the time that has elapsed, particularly those enshrined in the Charter of the United Nations, which express the international community's decision to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained. Other principles have been established on the basis of the consensual decisions of Member States in organs of the United Nations, such as the General Assembly and the United Nations Disarmament Commission (UNDC).

The Final Document of the Tenth Special Session of the General Assembly devoted to disarmament, whose agreements are still in force, refers to the issue of verification:

> "Paragraph 31: Disarmament and arms limitation agreements should provide for adequate measures of verification satisfactory to all parties concerned in order to create the necessary confidence and ensure that they are being observed by all parties. The form and modalities of the verification to be provided for in any specific agreement depend upon and should be determined by the purposes, scope and nature of the agreement. Agreements should provide for the participation of parties directly or through the United Nations system in the verification process. Where appropriate, a combination of several methods of verification as well as other compliance procedures should be employed.
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> Paragraph 91: In order to facilitate the conclusion and effective implementation of disarmament agreements and to create confidence, States should accept appropriate provisions for verification in such agreements.
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> Paragraph 92: In the context of international disarmament negotiations, the problem of verification should be further examined and adequate methods and procedures in this field be considered. Every effort should be made to develop appropriate methods and procedures which are non-discriminatory and which do not unduly interfere with the internal affairs of other States or jeopardize their economic and social development."

The States Members of the United Nations, within the framework of the United Nations Disarmament Commission (UNDC), have also agreed on general principles that elaborate upon or add to those stated in the Final Document of the Tenth Special Session of the General Assembly devoted to disarmament, and are fundamental elements in this regard:

"(1) Adequate and effective verification is an essential element of all arms limitation and disarmament agreements.

(2) Verification is not an aim in itself, but an essential element in the process of achieving arms limitation and disarmament agreements.

(3) Verification should promote the implementation of arms limitation and disarmament measures, build confidence among States and ensure that agreements are being observed by all parties.

(4) Adequate and effective verification requires employment of different techniques, such as national technical means, international technical means and international procedures, including on-site inspections.

(5) Verification in the arms limitation and disarmament process will benefit from greater openness.

(6) Arms limitation and disarmament agreements should include explicit provisions whereby each party undertakes not to interfere with the agreed methods, procedures and techniques of verification, when these are operating in a manner consistent with the provisions of the agreement and generally recognized principles of international law.

(7) Arms limitation and disarmament agreements should include explicit provisions whereby each party undertakes not to use deliberate concealment measures which impede verification of compliance with the agreement.

(8) To assess the continuing adequacy and effectiveness of the verification system, an arms limitation and disarmament agreement should provide for procedures and mechanisms for review and evaluation. Where possible, time frames for such reviews should be agreed in order to facilitate this assessment.

(9) Verification arrangements should be addressed at the outset and at every stage of negotiations on specific arms limitation and disarmament agreements.

(10) All States have equal rights to participate in the process of international verification of agreements to which they are parties.

(11) Adequate and effective verification arrangements must be capable of providing, in a timely fashion, clear and convincing evidence of compliance or non-compliance. Continued confirmation of compliance is an essential ingredient to building and maintaining confidence among the parties.

(12) Determinations about the adequacy, effectiveness and acceptability of specific methods and arrangements intended to verify compliance with the provisions of an arms limitation and disarmament agreement can only be made within the context of that agreement.

(13) Verification of compliance with the obligations imposed by an arms limitation and disarmament agreement is an activity conducted by the parties to an arms limitation and disarmament agreement or by an organization at the

request and with the explicit consent of the parties, and is an expression of the sovereign right of States to enter into such arrangements.

(14) Requests for inspections or information in accordance with the provisions of an arms limitation and disarmament agreement should be considered as a normal component of the verification process. Such requests should be used only for the purposes of the determination of compliance, care being taken to avoid abuses.

(15) Verification arrangements should be implemented without discrimination, and, in accomplishing their purpose, avoid unduly interfering with the internal affairs of State parties or other States, or jeopardizing their economic, technological and social development.

(16) To be adequate and effective, a verification regime for an agreement must cover all relevant weapons, facilities, locations, installations and activities."

Cuba agrees with the Secretary-General that the technological advances that have occurred in recent years create new characteristics and conditions for verification of arms control and disarmament agreements, as well as for an educated public's access to information. However, the digital gap which was identified and discussed extensively during the World Summit on the Information Society (2003 and 2005), also has an impact on the issue before us.

Not all the States parties to a disarmament agreement have reached the same technological level or are equally able to undertake effectively complex and technical negotiations on verification with experts who are well prepared and conversant with the latest technological advances. This confirms that the need for the most advanced countries to provide international cooperation and assistance to the least advanced should form an integral part of the obligations that should be assumed by the parties to any arms control and disarmament agreement.

Moreover, the international situation with regard to arms control and disarmament that prevailed in the final years of the previous century and which persists today does not help to create the conditions of trust and security essential for making progress on verification.

The United States of America is the country that is most responsible for the appearance and development of this negative situation: it refuses to undertake immediate negotiations to eliminate all nuclear weapons gradually and under strict international control; it prevented the conclusion of negotiations on the protocol to strengthen the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction; its military doctrine provides for the use of nuclear arms against countries that do not possess them, even as a preventive measure; it refuses to ratify the Comprehensive Nuclear-Test-Ban Treaty, preventing its entry into force; it attacked Iraq, without the authorization of the United Nations, and this has aggravated security problems in the world and led to the appearance or worsening of other negative factors that affect humanity, among other negative attitudes and actions.

The manipulation, for political purposes, of the necessary verification measures diminishes the scale and potential of their effectiveness, as does operating on the basis of double standards and selectivity, when countries which do not choose to comply with the opinions and agenda of the most powerful States are unfairly criticized and coerced. Paradoxically, those same countries exhibit, at best, a

complicit silence in the face of Israel's refusal to become a party to the Treaty on the Non-Proliferation of Nuclear Weapons and place its nuclear facilities under the safeguards of the International Atomic Energy Agency (IAEA) or with regard to its Prime Minister's statement concerning the possession of nuclear arms.

The General Assembly has stated that multilateral disarmament agreements provide the mechanisms for States parties to consult one another and to cooperate in solving any problems which may arise in relation to the objective of, or in the application of, the provisions of the agreements and that such consultations and cooperation may also be undertaken through appropriate international procedures within the framework of the United Nations and in accordance with the Charter.

The General Assembly has also reaffirmed the absolute validity of multilateral diplomacy in the field of disarmament and non-proliferation, and its determination to promote multilateralism as an essential way to develop arms regulation and disarmament negotiations.

However, in recent years, there has been a negative tendency to overwhelm the States with the submission of reports, most of which duplicate actions that they have to carry out under multilateral disarmament and arms control regimes.

The Security Council, exceeding the mandate entrusted to it by the Charter of the United Nations, is principally responsible for this situation. The Council should not take over the functions of other main bodies of the United Nations, or the mechanisms created by multilateral treaties such as the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (the Chemical Weapons Convention) or the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (the Biological Weapons Convention). This modus operandi affects the credibility of these multilateral regimes, because, among other factors, it could cast doubts on their usefulness or lead to the duplication of unnecessary expenses in processing and managing the information.

Cuba plays an active role in developing verification measures by means of its commitment and adherence to the principal multilateral disarmament and arms control conventions. It is thus a State party to the Treaty on the Non-Proliferation of Nuclear Weapons; the Chemical Weapons Convention; the Biological Weapons Convention, where we are advocating the conclusion of a protocol to strengthen it; and to the Treaty of Tlatelolco, establishing a nuclear-weapon-free zone in Latin America and the Caribbean. Consequently, Cuba is a member of the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (OPANAL), the Organization for the Prohibition of Chemical Weapons (OPCW), and the International Atomic Energy Agency (IAEA), and we have ratified and carry out fully the IAEA Safeguards Agreement and Additional Protocol. We are also in full compliance with the resolutions of the Security Council that entail obligations based on specific sanctions for Member States, including the submission of reports on their corresponding actions.

In addition, from September 2006 until 2009, Cuba has the honour to chair the Non-Aligned Movement and, during the Fourteenth Ministerial Conference held in Havana, its 118 members confirmed their commitment to promote and defend specific measures for disarmament and arms control, in particular nuclear disarmament, that include verification measures.

Spain

[Original: Spanish]
[16 June 2008]

In general, Spain considers that the report of the Panel of Government Experts (A/61/1028) examining verification, its evolution and future trends based on new technologies and verification mechanisms is very insightful.

The Spanish Government also endorses the report's conclusions, emphasizing the importance of verification as an integral part of disarmament, non-proliferation and arms control agreements and confidence- and security-building measures.

The principle "trust and verify" continues to be as important today as it was during the cold war because, as the report says, verification continues to be a tool to strengthen international security.

The Spanish Government shares the opinion that disarmament, non-proliferation and arms control agreements, and confidence- and security-building measures should be endowed with the necessary mechanisms to ensure verification of compliance with the obligations assumed. To ensure maximum transparency, these mechanisms should be intrusive, and their only limitation should be the balance that must be maintained between the need for verification, on the one hand, and the legitimate need to protect commercial property and national security, on the other.

Within these limits, verification mechanisms should be as intrusive as possible, with the ultimate goal of detecting possible non-compliance and determining clearly the level of collaboration by the corresponding authorities. Consequently, Spain is in favour of introducing the possibility of conducting challenge inspections generally in verification systems, perhaps with some restrictions as to the maximum number within a specific period of time.

Furthermore, even though compliance with the obligations voluntarily assumed is the responsibility of States, the Security Council should be able to act in serious cases of non-compliance or failure to collaborate. In this regard, and within the framework of the effective multilateralism advocated by the European Union, the verification mechanisms available to the United Nations should be strengthened, especially those designed to monitor compliance with the obligations assumed with regard to weapons of mass destruction (nuclear, radiological, chemical and biological), as well as their vector systems and related material.

In particular, the Secretariat also needs to be reinforced, providing it with a broad range of international experts who are available to conduct technical inspections at short notice.

Lastly, Spain supports the recommendations contained in the report, especially those relating to strengthening the mechanisms of the United Nations.

United States of America

[Original: English]
[20 June 2008]

The United States believes that the report of the Panel of Government Experts, which a group of experts representing the membership of the United Nations adopted by consensus, makes a significant contribution to the common understanding of the purposes, relevance and techniques available for verification and compliance of arms control, non-proliferation and disarmament agreements and arrangements in the twenty-first century. The report also provides useful recommendations for action.

The United States especially commends the Panel for its recognition of the core principles and concepts underpinning verification in all its aspects, including most importantly that:

- Verification is a tool through which international peace and security may be strengthened;
- Verification seeks to provide confidence that States are complying with their obligations, deter States from non-compliance, induce non-compliant States back into compliance, and preclude violations from undercutting the security of other parties;
- Verification approaches should be designed to enable the parties to an agreement to monitor compliance and detect and collect evidence of possible non-compliance before that non-compliance threatens the core security objectives of the agreement;
- There is no single means of verification applicable to all agreements;
- Advances in science, the nature of the agreement under consideration, and national implementation capacities affect in fundamental ways whether effective verification can be achieved and, if so, the means by which it can be achieved;
- In some instances, there are no practical means by which an agreement can be made effectively verifiable;
- States parties to agreements bear the ultimate responsibility for making compliance assessments and for ensuring and enforcing compliance; and
- For agreements and their verification mechanisms to achieve their aims and strengthen peace and security, there need to be clear and assured consequences for non-compliant behaviour, consistent with the nature of the violation, its potential impact, if not countered, and the provisions of relevant international law and national legislation.

The United States endorses the recommendations made by the Panel in its report and commends them for the consideration of all Member States. In this regard, we find especially noteworthy those recommendations related to: increasing the capacity of States to implement their obligations, including for verification; identifying means to deal with withdrawal from treaties by States parties which have violated the provisions of those treaties, or otherwise have redirected transfers made for peaceful purposes to the pursuit of prohibited, weapons-related activities; and exploring synergies and more cost-effective arrangements.